



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 27, 1996

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Comptroller of Public Accounts
LBJ State Office Building
Austin, Texas 78701

OR96-0423

Dear Ms. Joseph:

You have asked this office to determine if information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38576.

The Comptroller of Public Accounts (the "comptroller") received a request for the application of the American Federation of State, County, and Municipal Employees ("AFSCME") for certification as an employee organization authorized to receive membership dues by payroll deduction. The requestor also sought copies of all supporting documentation and correspondence related to the application. You state that you have released all responsive information to the requestor, except for the AFSCME payroll deductions membership lists. You contend that the lists are confidential under section 552.101 of the Government Code.

You have submitted representative copies of the lists at issue to this office for review.¹ The lists provide the names of employees at state agencies who are AFSCME dues paying members. Also included on the lists are the public employees' social security numbers, home addresses, and dues amounts. We agree that the lists at issue must be withheld from disclosure.

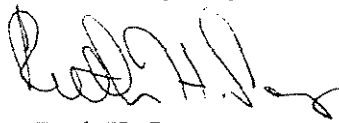
¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.101 encompasses a common-law right of privacy, which has been recognized by the Texas Supreme Court. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.). This provision protects information which is both highly intimate or embarrassing to a reasonable person and of no legitimate interest to the public.

The membership lists at issue implicate the privacy interests of the public employees on the list. We note that there is a legitimate public interest in payroll deductions if the financial transactions involve public funds. See Open Records Decision No. 545 (1990). However, because in this case the payroll deductions are funded entirely by the employees, there is no legitimate public interest in disclosure of any part of the AFSCME membership lists. See Open Records Decision No. 600 (1992). The lists at issue are confidential and may not be disclosed.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 38576

Enclosures: Submitted documents

cc: Mr. Michael Gross
Texas State Employees Union
2700 South 1st Street
Austin, Texas 78704-5454
(w/o enclosures)

²Because we have determined that the information at issue may not be disclosed under common-law privacy, we need not address your other arguments against disclosure.